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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,347	12/29/2000	William D. Rupp	046700-5014	8394
28977	7590	12/10/2004	EXAMINER	
MORGAN, LEWIS & BOCKIUS LLP 1701 MARKET STREET PHILADELPHIA, PA 19103-2921			PATEL, JAGDISH	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/753,347	Applicant(s) RUPP ET AL	
	Examiner JAGDISH PATEL	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07032002</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Information Disclosure Statement

The IDS filed 4/24/2003 is missing associated form PTO-1449 (1 sheet). It is requested that the applicant include a copy of the missing PTO-1449 with the response to this office action.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 6 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 6 further limits parent claim 1 by adding a method step of selecting a bid adjustment type ..wherein the adjustment type corresponds to a bid rank. This limitation is unclear because the relationship of a "bid rank" to the bid adjustment value is not clearly specified in the claim.

4. claim 13 recites "wherein each bid adjustment component may be adjusted using a different bid adjustment mechanism.."

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renders the claim indefinite because the scope of the claim cannot be definitively ascertained.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,2,7,9,11,13 and 14 are rejected under 35

U.S.C. 102(b) as being clearly anticipated by Rockoff et al.

(Design of an Internet-based system for remote Dutch auctions, Internet Research: Electronic Networking Applications and Policy, Volume 5- Number 4-1995, pp. 10-16). (hereafter Rockoff).

Per claim 1, Rockoff teaches a method of configuring a bid adjustment mechanism in an online auction, (bidder and auctioneer interfaces, p.12) comprising the steps of:

(a) displaying a bid adjustment mechanism configuration interface, (Figure 2) and

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(b) setting a bid adjustment value for the bid adjustment mechanism using the configuration interface, such that when the bid adjustment mechanism is actuated, a bid is adjusted by the bid adjustment value set in the configuration interface.

(see p. 12 "when the offer price reaches a value ..that fact by clicking the "bid" button..at that point the bidder enters the amount of product ..at the indicated price.")

Claim 2: wherein the bid adjustment mechanism is a button on a graphical user interface displayed to the bidder.

("bid" button)

Claim 7: Rockoff teaches a method of configuring bid adjustment mechanisms in an online auction, wherein bids are comprised of at least two parameters, (quantity and bid) and each parameter may be adjusted using a different bid adjustment mechanism, comprising the steps of:

(a) displaying a bid adjustment mechanism configuration interface,

(Figure 2) and

(b) setting a bid adjustment value for each of the at least two bid parameters, such that when a bid adjustment mechanism for a given bid parameter is actuated, the given bid parameter is adjusted by the bid adjustment value set for the given parameter using the configuration interface.

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(see p. 12 "when the offer price reaches a value ..that fact by clicking the "bid" button..at that point the bidder enters the amount of product ..at the indicated price.")

Claim 9: wherein the at least two bid parameters include price and quantity.

(see p. 12 "amount of product" at the "indicated price")

Claim 11 is analyzed in accordance with method claim 1 since Rockoff discloses an apparatus to practice the method.

Similarly, claims 13 and 14 are analyzed in accordance with method claims 7 and 9 respectively.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rockoff.

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Regarding claim 10 Rockoff does not expressly show that the at least two bid parameters include discount rate and contract length.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. i.e. the property or the nature of the at least two parameters does not functionally relate to the functional steps displaying and setting bid adjustment values which would be performed the same regardless of the data.

Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983), *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made have any two bid parameters as appropriate which represent price and quantity respectively because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

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9. Claims 3-5, 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rockoff and further in view of Fisher et al. (US Pat. 5,835,896).

Regarding claim 3, Rockoff fails to show explicitly that step (b) further comprises selecting a bid adjustment type associated with the bid adjustment value, wherein the bid adjustment type corresponds to an absolute value or a percentage of a previous bid.

However, Fisher teaches selecting a bid adjustments type which corresponds to an absolute value or a percentage of a previous bid (see col. 13 L 4-12).

It would have been obvious to one of ordinary skill in the art at the time of invention to provision selection of a bid adjustment type as per claim in view of Rockoff and Fisher because this would provide flexibility to the bidder to adjust the bid adjustment value suitable to individual need.

Claims 4 and 5: Fisher teaches that the absolute value is measured in currency and that the currency is U.S. dollars (see Fig.2).

Claim 8: wherein step (b) further comprises selecting, for each one of the at least two bid parameters, a bid adjustment

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type associated with the bid adjustment value set for said one bid parameter.

(refer to claim 3 analysis.)

Claim 12: refer to claim 3 analysis.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (703)308-7837. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703)308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jagdish N. Patel 12/7/04
Jagdish N. Patel

(Primary Examiner, AU 3624)

12/7/04